

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF WASHINGTON

UNITED STATES OF AMERICA,

Plaintiff,

vs.

MICHAEL THOMAS VAN DYKE,

Defendant.

No. 2:15-CR-025-JLQ

ORDER GRANTING MOTION TO
EXPEDITE AND GRANTING
DEFENDANT'S MOTION TO
MODIFY DETENTION ORDER

☒ Motion Denied

(ECF No. 24)

At the April 29, 2015, hearing on Defendant's Motion to Modify Detention Order, ECF No. 24, Defendant was present with counsel Federal Defender Andrea K. George. Assistant U.S. Attorney James A. Goeke represented the United States.

Defendant proposed release on the conditions below, and the United States did not object.

The court reviewed the Pretrial Services Report, ECF No. 18, and heard the argument of counsel. Defendant's father, Leroy Van Dyke, addressed the Court.

This Court has taken into account 18 U.S.C. § 3142, and the evidence, testimony and information produced at this hearing concerning the nature and circumstances of the offense charged, the weight of the evidence against the Defendant, his history and characteristics, including character, physical and mental condition, family ties, employment, financial resources, length of residence in the community, community ties, past conduct, history relating to alcohol and drug abuse, criminal history, record concerning appearance at court proceedings, and the nature and seriousness of the danger to the community posed by Defendant's release.

1 The Court finds by a preponderance that conditions will reasonably assure the
2 Defendant's appearance for further proceedings, and by clear and convincing
3 evidence that combination of conditions will reasonably assure the safety of the
4 community if Defendant is released pending trial.

5 Accordingly Defendant's Motion, **ECF No. 24**, is **GRANTED**. The Motion
6 to Expedite, **ECF No. 25**, is **GRANTED**. Defendant shall be released, subject to
7 the following:

8 **STANDARD CONDITIONS OF RELEASE**

- 9 (1) Defendant shall not commit any offense in violation of federal, state or local
10 law. Defendant shall advise the supervising Pretrial Services Officer and
11 defense counsel within one business day of any charge, arrest, or contact with
12 law enforcement. Defendant shall not work for the United States government
13 or any federal or state law enforcement agency, unless Defendant first notifies
14 the supervising Pretrial Services Officer in the captioned matter.
- 15 (2) Defendant shall immediately advise the court, defense counsel and the U.S.
16 Attorney in writing before any change in address and telephone number.
- 17 (3) Defendant shall appear at all proceedings as required and shall surrender for
18 service of any sentence imposed as directed.
- 19 (4) Defendant shall sign and complete A.O. Form 199C before being released and
20 shall reside at the address furnished.
- 21 (5) Defendant shall not possess a firearm, destructive device or other dangerous
22 weapon.
- 23 (6) Defendant shall report to the United States Probation Office before or
24 immediately after release and shall report as often as they direct, at such times
25 and in such manner as they direct.
- 26 (7) Defendant shall contact defense counsel at least once a week.
- 27 (8) Defendant is further advised, pursuant to 18 U.S.C. § 922(n), it is unlawful
28 for any person who is under indictment for a crime punishable by
imprisonment for a term exceeding one year, to possess, ship or transport in

1 interstate or foreign commerce any firearm or ammunition or receive any
2 firearm or ammunition which has been shipped or transported in interstate or
3 foreign commerce.

4 (9) Defendant shall refrain from the use or unlawful possession of a narcotic drug
5 or other controlled substances defined in 21 U.S.C. § 802, unless prescribed
6 by a licensed medical practitioner in conformance with Federal law.
7 Defendant may not use or possess marijuana, regardless of whether Defendant
8 has been authorized medical marijuana under state law.

9 (10) Defendant shall surrender any passport to Pretrial Services and shall not apply
10 for a new passport.

11 **ADDITIONAL CONDITIONS OF RELEASE**

12 (11) The Defendant is placed with his father, Leroy Van Dyke, who agrees to sign
13 A.O. form 199B, and to supervise the Defendant consistent with all the
14 conditions of release; use every effort to assure the appearance of the
15 Defendant at all scheduled court proceedings; and notify the court
16 immediately in the event the Defendant violates any conditions of release or
17 disappears.

18 (12) Defendant shall remain in the Eastern District of Washington while the case
19 is pending. On a showing of necessity, and with prior notice by the defense
20 to the assigned Assistant U.S. Attorney, the Defendant may obtain prior
21 written permission to temporarily leave this area from the United States
22 Probation Office.

23 (13) Avoid all contact, direct or indirect, with any persons who Defendant would
24 reasonably know are or may become a victim or potential witness in the
25 subject investigation or prosecution.

26 (14) Avoid all contact, direct or indirect, with known felons or Co-Defendant(s).

27 (15) Refrain from any use of alcohol.

28 (16) There shall be no alcohol in the home where Defendant resides.

(17) There shall be no firearms in the home where Defendant resides.

- 1 (18) Defendant may not be in the presence of minors, unless a responsible adult,
2 who is aware of these charges, is present at all times. May not frequent
3 schools or playgrounds or places where minors are known to congregate.
- 4 (19) Defendant shall not have access to the internet, including but not limited to
5 cell phones with internet access. Should Defendant obtain employment
6 involving the use of computers or other digital devices, this condition may be
7 revisited.
- 8 (20) Defendant shall not possess or view pornography of any kind, in any type of
9 media.
- 10 (21) **Prohibited Substance Testing: If random urinalysis testing is not done**
11 **through a treatment program, random urinalysis testing shall be**
12 **conducted through Pretrial Services, and shall not exceed six (6) times**
13 **per month.** Defendant shall submit to any method of testing required by the
14 Pretrial Service Office for determining whether the Defendant is using a
15 prohibited substance. Such methods may be used with random frequency and
16 include urine testing, the wearing of a sweat patch, a remote alcohol testing
17 system, and/or any form of prohibited substance screening or testing.
18 Defendant shall refrain from obstructing or attempting to obstruct or tamper,
19 in any fashion, with the efficiency and accuracy of prohibited substance
20 testing.

21 **HOME CONFINEMENT/ELECTRONIC/GPS MONITORING**

- 22 (22) Defendant shall participate in one or more of the following home confinement
23 program(s):

24 **Electronic Monitoring:** The Defendant shall participate in a program of
25 electronically monitored home confinement. The Defendant shall wear, at all
26 times, an electronic monitoring device under the supervision of U.S.
27 Probation. In the event the Defendant does not respond to electronic
28 monitoring or cannot be found, the U.S. Probation Office shall forthwith
notify the United States Marshals' Service, who shall immediately find, arrest
and detain the Defendant. The Defendant shall pay all or part of the cost of
the program based upon ability to pay as determined by the U.S. Probation
Office.

OR

1 **GPS Monitoring:** The Defendant shall participate in a program of GPS
2 confinement. The Defendant shall wear, at all times, a GPS device under the
3 supervision of U.S. Probation. In the event the Defendant does not respond
4 to GPS monitoring or cannot be found, the U.S. Probation Office shall
5 forthwith notify the United States Marshals' Service, who shall immediately
6 find, arrest and detain the Defendant. The Defendant shall pay all or part of
7 the cost of the program based upon ability to pay as determined by the U.S.
8 Probation Office.

9 AND

10 **Curfew:** Defendant shall be restricted to his/her residence every day from
11 **8:00 p.m. to 7:00 a.m.**

12 If a party desires that another Court review this order pursuant to 18 U.S.C. §
13 3145, that party shall promptly file a motion for review before the district judge to
14 whom the case is assigned, as further described in the Detention Order Review
15 Protocol published for the Eastern District of Washington. Both parties shall
16 cooperate to insure that the motion is promptly determined.

17 DATED April 29, 2015.



JOHN T. RODGERS
UNITED STATES MAGISTRATE JUDGE